

ASSEMBLY BILL

No. 1700

**Introduced by Committee on Environmental Safety and Toxic
Materials (Laird (Chair), Chu, Levine, Lieber, and Lowenthal)**

February 25, 2003

An act to amend Section 116365 of the Health and Safety Code,
relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1700, as introduced, Committee on Environmental Safety and
Toxic Materials. Drinking water: risk assessments.

Existing law, commonly known as the California Safe Drinking
Water Act, requires the State Department of Health Services to adopt
primary drinking water standards for contaminants in drinking water
that are to be set at levels as close as possible to the corresponding public
health goal and consistent with specified criteria. Existing law requires
the Office of Environmental Health Hazard Assessment to prepare and
publish an assessment of the risks to public health posed by each
contaminant for which the department proposes a primary drinking
water standard in accordance with specified procedures.

Existing law requires the office to submit the risk assessment to
external scientific peer review prior to its publication, upon the request
of any interested person who meets prescribed requirements.

This bill would authorize the office, notwithstanding the above
requirement, to deny a request to submit a risk assessment to scientific
peer review if certain conditions are met. The bill would also make
various technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 116365 of the Health and Safety Code is amended to read:

116365. (a) The department shall adopt primary drinking water standards for contaminants in drinking water that are based upon the criteria set forth in subdivision (b) and shall not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. Each primary drinking water standard adopted by the department shall be set at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, meets all of the following:

(1) With respect to acutely toxic substances, avoids any known or anticipated adverse effects on public health with an adequate margin of safety, ~~and~~.

(2) With respect to carcinogens, or any substances that may cause chronic disease, avoids any significant risk to public health.

(b) The department shall consider all of the following criteria when it adopts a primary drinking water standard:

(1) The public health goal for the contaminant published by the ~~Office of Environmental Health Hazard Assessment~~ office pursuant to subdivision (c).

(2) The national primary drinking water standard for the contaminant, if any, adopted by the United States Environmental Protection Agency.

(3) The technological and economic feasibility of compliance with the proposed primary drinking water standard. For the purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to public water systems, customers, and other affected parties with the proposed primary drinking water standard, including the cost per customer and aggregate cost of compliance, using best available technology.

(c) (1) The ~~Office of Environmental Health Hazard Assessment~~ office shall prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard. The risk assessment shall be prepared using the most current principles,

1 practices, and methods used by public health professionals who are
2 experienced practitioners in the fields of epidemiology, risk
3 assessment, and toxicology. The risk assessment shall contain an
4 estimate of the level of the contaminant in drinking water that is
5 not anticipated to cause or contribute to adverse health effects, or
6 that does not pose any significant risk to health. This level shall be
7 known as the public health goal for the contaminant. The public
8 health goal shall be based exclusively on public health
9 considerations and shall be set in accordance with all of the
10 following:

11 (A) If the contaminant is an acutely toxic substance, the public
12 health goal shall be set at the level at which no known or
13 anticipated adverse effects on health occur, with an adequate
14 margin of safety.

15 (B) If the contaminant is a carcinogen or other substance that
16 may cause chronic disease, the public health goal shall be set at the
17 level that, based upon currently available data, does not pose any
18 significant risk to health.

19 (C) To the extent information is available, the public health
20 goal shall take into account each of the following factors:

21 (i) Synergistic effects resulting from exposure to, or interaction
22 between, the contaminant and one or more other substances or
23 contaminants.

24 (ii) Adverse health effects the contaminant has on members of
25 subgroups that comprise a meaningful portion of the general
26 population, including, but not limited to, infants, children,
27 pregnant women, the elderly, individuals with a history of serious
28 illness, or other subgroups that are identifiable as being at greater
29 risk of adverse health effects than the general population when
30 exposed to the contaminant in drinking water.

31 (iii) The relationship between exposure to the contaminant and
32 increased body burden and the degree to which increased body
33 burden levels alter physiological function or structure in a manner
34 that may significantly increase the risk of illness.

35 (iv) The additive effect of exposure to the contaminant in
36 media other than drinking water, including, but not limited to,
37 exposures to the contaminant in food, and in ambient and indoor
38 air, and the degree to which these exposures may contribute to the
39 overall body burden of the contaminant.

1 (D) If the ~~Office of Environmental Health Hazard Assessment~~
2 *office* finds that currently available scientific data are insufficient
3 to determine the level of a contaminant at which no known or
4 anticipated adverse effects on health will occur, with an adequate
5 margin of safety, or the level that poses no significant risk to public
6 health, the public health goal shall be set at a level that is protective
7 of public health, with an adequate margin of safety. This level shall
8 be based exclusively on health considerations and shall, to the
9 extent scientific data are available, take into account the factors set
10 forth in ~~clauses (i) to (iv), inclusive, of subparagraph (C), and shall~~
11 be based on the most current principles, practices, and methods
12 used by public health professionals who are experienced
13 practitioners in the fields of epidemiology, risk assessment, and
14 toxicology. However, if adequate scientific evidence demonstrates
15 that a safe dose response threshold for a contaminant exists, then
16 the public health goal should be set at that threshold. The
17 department may set the public health goal at zero if necessary to
18 satisfy the requirements of this subparagraph.

19 (2) The determination of the toxicological endpoints of a
20 contaminant and the publication of its public health goal in a risk
21 assessment prepared by the ~~Office of Environmental Health~~
22 ~~Hazard Assessment~~ *office* are not subject to the requirements of
23 Chapter 3.5 (commencing with Section 11340) of Part 1 of
24 Division 3 of Title 2 of the Government Code. The ~~Office of~~
25 ~~Environmental Health Hazard Assessment~~ *office* and the
26 department shall not impose any mandate on a public water system
27 that requires the public water system to comply with a public
28 health goal. The Legislature finds and declares that the addition of
29 this paragraph by the act amending this section during the
30 1999–2000 Regular Session of the Legislature is declaratory of
31 existing law.

32 (3) (A) Beginning July 1, 2001, the ~~Office of Environmental~~
33 ~~Health Hazard Assessment~~ *office* shall, at the time it commences
34 preparation of a risk assessment for a contaminant as required by
35 this subdivision, electronically post on its Internet web page a
36 notice that informs interested persons that it has initiated work on
37 the risk assessment. The notice shall also include a brief
38 description, or a bibliography, of the technical documents or other
39 information the office has identified to date as relevant to the
40 preparation of the risk assessment and inform persons who wish

1 to submit information concerning the contaminant that is the
2 subject of the risk assessment of the name and address of the person
3 in the office to whom the information may be sent, the date by
4 which the information must be received in order for the office to
5 consider it in the preparation of the risk assessment, and that all
6 information submitted will be made available to any member of
7 the public who requests it. Until July 1, 2001, the ~~Office of~~
8 ~~Environmental Health Hazard Assessment~~ office shall send the
9 notice to interested persons who request it by mail.

10 (B) Each draft risk assessment prepared by the ~~Office of~~
11 ~~Environmental Health Hazard Assessment~~ office pursuant to this
12 subdivision shall be made available to the public at least 45
13 calendar days prior to the date that public comment and discussion
14 on the risk assessment are solicited at the public workshop required
15 by Section 57003.

16 (C) At the time the ~~Office of Environmental Health Hazard~~
17 ~~Assessment~~ office publishes the final risk assessment for a
18 contaminant, the office shall respond in writing to significant
19 comments, data, studies, or other written information submitted by
20 interested persons to the office in connection with the preparation
21 of the risk assessment. Any ~~such~~ comments, data, studies, or other
22 written information submitted to the office shall be made available
23 to any member of the public who requests it.

24 (D) Any interested person may, within 15 calendar days of the
25 date the public workshop on a risk assessment is completed
26 pursuant to Section 57003, request the ~~Office of Environmental~~
27 ~~Health Hazard Assessment~~ office to submit the risk assessment to
28 external scientific peer review prior to its publication. If the office
29 receives such a request, the office shall submit the risk assessment
30 to external scientific peer review in a manner substantially
31 equivalent to the external scientific peer review process set forth
32 in Section 57004, if the person requesting the external scientific
33 peer review enters into an enforceable agreement with the office
34 within 15 calendar days of making the request that requires the
35 person requesting the external scientific peer review to fully
36 reimburse the office for all of the costs associated with conducting
37 the external scientific peer review.

38 (E) It is the intent of the Legislature that, if the ~~Office of~~
39 ~~Environmental Health Hazard Assessment~~ office receives a
40 request to submit a risk assessment prepared for a contaminant to

1 which paragraph (2) of subdivision (e) applies to external
2 scientific review, the peer review shall be conducted in a manner
3 that does not affect the schedule for publishing the public health
4 goal for that contaminant as set forth in paragraph (2) of
5 subdivision (e).

6 *(F) Notwithstanding subparagraph (D), the office may deny a*
7 *request to submit a risk assessment to scientific peer review if the*
8 *draft risk assessment for the public health goal has already been*
9 *submitted by the office for scientific peer review within six months*
10 *of the date the draft public health goal is made public and a*
11 *summary of the scientific peer review comments is made available*
12 *to the public at the workshop or upon request.*

13 (d) Notwithstanding any other provision of this section, any
14 maximum contaminant level in effect on August 22, 1995, may be
15 amended by the department to make the level more stringent
16 pursuant to this section. However, the department may only amend
17 a maximum contaminant level to make it less stringent if the
18 department shows clear and convincing evidence that the
19 maximum contaminant level should be made less stringent and the
20 amendment is made consistent with this section.

21 (e) (1) All public health goals published by the ~~Office of~~
22 ~~Environmental Health Hazard Assessment~~ office shall be
23 established in accordance with the requirements of subdivision (c)
24 and shall be reviewed at least once every five years and revised,
25 pursuant to subdivision (c), as necessary based upon the
26 availability of new scientific data.

27 (2) On or before January 1, 1998, the ~~Office of Environmental~~
28 ~~Health Hazard Assessment~~ office shall publish a public health goal
29 for at least 25 drinking water contaminants for which a primary
30 drinking water standard has been adopted by the department. The
31 office shall publish a public health goal for 25 additional drinking
32 water contaminants by January 1, 1999, and for all remaining
33 drinking water contaminants for which a primary drinking water
34 standard has been adopted by the department by no later than
35 December 31, 2001. A public health goal shall be published by the
36 ~~Office of Environmental Health Hazard Assessment~~ office at the
37 same time the department proposes the adoption of a primary
38 drinking water standard for any newly regulated contaminant.

39 (f) The department or ~~Office of Environmental Health Hazard~~
40 ~~Assessment~~ office may review, and adopt by reference, any

1 information prepared by, or on behalf of, the United States
2 Environmental Protection Agency for the purpose of adopting a
3 national primary drinking water standard or maximum
4 contaminant level goal when it establishes a California maximum
5 contaminant level or publishes a public health goal.

6 (g) At least once every five years after adoption of a primary
7 drinking water standard, the department shall review the primary
8 drinking water standard and shall, consistent with the criteria set
9 forth in subdivisions (a) and (b), amend any standard if any of the
10 following occur:

11 (1) Changes in technology or treatment techniques that permit
12 a materially greater protection of public health or attainment of the
13 public health goal.

14 (2) New scientific evidence that indicates that the substance
15 may present a materially different risk to public health than was
16 previously determined.

17 (h) Not later than March 1 of every year, the department shall
18 provide public notice of each primary drinking water standard it
19 proposes to review in that year pursuant to this section. Thereafter,
20 the department shall solicit and consider public comment and hold
21 one or more public hearings regarding its proposal to either amend
22 or maintain an existing standard. With adequate public notice, the
23 department may review additional contaminants not covered by
24 the March 1 notice.

25 (i) This section shall operate prospectively to govern the
26 adoption of new or revised primary drinking water standards and
27 does not require the repeal or readoption of primary drinking water
28 standards in effect immediately preceding January 1, 1997.

29 (j) The department may, by regulation, require the use of a
30 specified treatment technique in lieu of establishing a maximum
31 contaminant level for a contaminant if the department determines
32 that it is not economically or technologically feasible to ascertain
33 the level of the contaminant.

34 (k) *For purposes of this section, “office” means the Office of*
35 *Environmental Health Hazard Assessment.*

